

As a holder of copyrights in photographic imaging, I am leery of anything in regards to “orphan works” because very few works actually ARE orphans. Most people do not bother to do a comprehensive search, especially on Photographic documents and it is very difficult to know how to search them if you do try to do a search. What one person names their work may not be what the actual file name might be. You cannot search “Great Blue Heron” without coming up with thousands of photos of great blue herons, and if you are doing a search engine search for them, they pull in images that may be copyrighted, but because someone is unscrupulous and has just taken those images off the internet to put on their blog, web page or social media site, it’s virtually impossible to police. Sometimes the search engine search itself makes it difficult to ascertain to whom the images belong because of the way they display the photograph.

Simply by putting your work on the internet, an artist takes a huge risk of losing control over that image because people do not understand copyright and the internet or don’t care about that copyright. I have seen my images appear on other people’s Facebook profiles, web pages, and even in digital tag comments, and have had to ask them to remove them. Sometimes they comply, and sometimes I have to go to the site owner and demand that they be removed. To date, I have not had to go so far as to have a lawyer send a Cease and Desist order, but that may be coming. I have had images taken to be resold on other artists’ web pages (they had to have known about copyright and that my image was copyrighted). I have had people try to pass off my images as their own. I have had to interact with people who used someone else’s copyrighted material to post on email lists and websites in violation of someone else’s copyright. I had one young lady proclaim that because she purchased certain images that she “owned” them and could do what she wanted with them and she wanted to “share” them (I sent a copy of her email to the copyright owner, ProvoCraft). Sometimes, someone will tell me they’ve seen my work someplace, or someone will tell me that they hope it’s ok but they shared a link to my image because they liked it. Fortunately, I was able to put a disclaimer on the site it was on.

If current copyright laws are not being followed and are either ignored or misunderstood, why would changing them to make it more confusing be any better? If anything, they should be tightened up.

On the other end of the spectrum, I work in a library, and see where digitizing material could be good for the patrons of the library, especially with formats changing. It would be great to be able to legally copy that VCR tape to a DVD and let that circulate instead of the original, especially when no one offers it on DVD, as in a case of a movie or documentary that was released long ago, or changing the format of a record from a platter to a CD, and it should be ok as long as they make the same number of copies of the VCR tape or record as they have in the library, and then archive the VCR tape or Record.

Until image searches are better, it might be better to hold off on labeling something an Orphan work, and making sure that those works that are declared Orphan actually are orphans or if someone claims they are because they are too lazy to do a comprehensive search, they don’t know how to do a comprehensive search, or they didn’t do it correctly.